

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U 338-E) for a Certificate of Public Convenience and Necessity Concerning the Antelope-Pardee 500 kV (Segment 1) Transmission Project as Required by Decision 04-06-010 and as Modified by Subsequent Assigned Commissioner Ruling.

Application 04-12-007
(Filed December 9, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON MOTIONS FOR LEAVE TO FILE UNDER SEAL
AND FOR PROTECTIVE ORDERS**

On July 6, 2005, in connection with their submission of redacted versions of their Opening Testimony in Application (A.) 04-12-007, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) also submitted confidential, unredacted versions of their opening testimony and filed motions for confidential treatment of certain material in the unredacted versions of their testimony.¹ In their

¹ The motions include: Motion of Pacific Gas and Electric Company for Authority to File and Maintain Confidential, Commercially Sensitive, Proprietary Information under Seal; namely, Opening Testimony of Pacific Gas and Electric Company; Motion of San Diego Gas & Electric Company (U 902 E) for Authority to Submit and Maintain Confidential, Commercially Sensitive, Proprietary Information Under Seal and for Protective Order; and Southern California Edison Company's (U 338-E) Motion for Confidential Treatment of Unredacted Version of the Testimony of Mr. Gary Allen Pursuant to Pub. Util. Code §§ 583 and 454.5(G) and Protective Order.

motions, the utilities request leave to provide certain information contained in the unredacted versions of their testimony to the Commission under seal and to maintain such information under seal.

The utilities request that the materials they seek to protect be provided confidential treatment pursuant to Pub. Util. Code §§ 583 and 454.5(G) and General Order 66-C. I grant the requests of SCE, PG&E, and SDG&E to file the requested materials under seal. The utilities shall make the protected materials available to parties pursuant to the Protective Order adopted in Rulemaking (R.) 01-10-024 on May 20, 2003, modified as necessary to reflect this proceeding.

The utilities seek to protect from disclosure information concerning: (1) the total number of Renewables Portfolio Standard (RPS)² bids or offers received through RPS solicitations or unsolicited offers to date; (2) the total capacity offered to the utilities from Tehachapi-area wind projects; (3) the total number of RPS bids or offers received by the utilities from Tehachapi-area projects; (4) the average price of Tehachapi-area wind bids submitted to date; and (5) whether Tehachapi-area wind projects are included in the utilities RPS plans filed on March 7, 2005 in R.04-04-026. The utilities maintain that the redacted material in their testimony contains confidential trade secrets and market sensitive information that must be protected from public disclosure. The utilities state that disclosure of the redacted information could drive up the price of contracts in RPS solicitations, reduce competition by leading certain bidders to refrain from participating in the RPS process, or otherwise influence bidding behavior. The

² The Renewables Portfolio Standard, or “RPS” program was created by Senate Bill 1078, which among other things, requires the state’s investor-owned utilities to increased electrical generation from renewable resources by at least 1% per year, until renewables comprise 20% of total utility procurement.

utilities also state that the information is not currently publicly available and cannot be calculated or derived from other public information.

SDG&E notes that it is currently in negotiations with short listed bidders in response to SDG&E's 2004 RPS solicitation and that bid and short-list information should be protected until the Commission has approved all of the projects resulting from SDG&E's 2004 solicitation. SDG&E further requests that confidential pricing information be protected from public disclosure for a period of five years. SDG&E explains that the bid-specific price information would provide the market with information concerning the price SDG&E is willing to pay for renewable energy. SDG&E believes that disclosure of this information within the period of time in which SDG&E is attempting to meet the RPS goal of 20% by 2010 could harm SDG&E's customers.

SCE and SDG&E recommend the adoption in this proceeding of the protective order first adopted by ALJ ruling dated May 20, 2003, for use in R.01-10-024, and subsequently adopted for use in R.04-04-026 by ALJ ruling on June 9, 2005. SCE also notes that it is likely that the ALJ and parties will expect to have access to additional information regarding SCE's RPS process during the course of this proceeding and suggests as a general principle that information protected from disclosure in the RPS Rulemaking (R.04-04-026) should be afforded similar protection here.

I grant the utilities' requests to submit the unredacted testimony under seal. Disclosure to the public of the capacity offered by bidders and/or the price of bids could place the utilities at an unfair disadvantage in negotiations for RPS contracts and could harm ratepayers. The utilities shall make the protected material available under the protective order adopted by ALJ Ruling in R.01-10-024, modified as necessary to reflect this proceeding and provide

protection for the confidential information discussed in this ruling. If, at a later point in this proceeding, it appears that the parameters of this protective order should be revisited, parties should meet and confer and present an alternative. In general, I will not require disclosure in this proceeding of information that is protected in R.04-04-026. Nor will I protect as confidential in this proceeding information that is available or becomes available publicly through R.04-04-026 or the utilities' RPS Advice Letters.

Furthermore, the utilities should not assume that any other information that may be produced in this proceeding is subject to the same protective order until having received an order or ruling from the Commission, the Assigned ALJ, or the designated Law and Motion ALJ granting such protection. All future confidentiality requests shall identify with particularity why protection should be given to each item of information sought to be protected, including identification of any other proceedings in which the information has heretofore been protected.

SCE also requested permission to provide additional testimony of Phillip A. Durgin. SCE states that Durgin's testimony concerns SCE's recovery in rates of costs of Antelope Transmission Project Segment 1 under Pub. Util. Code § 399.25(b)(4). SCE notes that the Scoping Memo included within the scope of the proceeding "[C]onsideration of the ratemaking treatment for the project under Section 399.25 (b)(4). SCE states that no party should be prejudiced by receiving the five pages of Durgin's testimony as of July 6, 2005, since more than one month will be available for parties to review and comment on the accounts and mechanisms described by Durgin. No party filed a response to SCE's request. SCE's request to provide additional testimony is granted.

Therefore, **IT IS RULED** that:

1. Pacific Gas and Electric Company's (PG&E) Motion for Authority to File and Maintain confidential, Commercially sensitive, proprietary information under seal; namely, Opening Testimony of PG&E, is granted as discussed herein.
2. Southern California Edison Company's (SCE) Motion for Confidential Treatment of Unredacted Version of the Testimony of Gary Allen is granted as discussed herein.
3. The Motion of San Diego Gas & Electric Company for Authority to submit and Maintain Confidential, Commercially Sensitive, Proprietary Information Under Seal and for Protective Order is granted as discussed herein.
4. The protective order issued May 20, 2003, in Rulemaking 01-10-024, as modified to reflect this proceeding, shall govern access to and the use of the material under seal in this proceeding.
5. The Confidential Information shall not be made accessible or disclosed to anyone other than Commission staff and those eligible under the protective order except pursuant to or on further order or ruling of the Commission, the Assigned Administrative Law Judge (ALJ), or the ALJ designated as Law and Motion Judge.
6. SCE's request to provide additional testimony of Phillip A. Durgin is granted.

Dated August 9, 2005, at San Francisco, California.

/s/ JULIE M. HALLIGAN

Julie M. Halligan
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Motions for Leave to File Under Seal and for Protective Orders on all parties of record in this proceeding or their attorneys of record.

Dated August 9, 2005, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

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